

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

AARON D. SEYMOUR,

Plaintiff,

v.

LEDBETTER,

Defendant.

Case No.: 1:22-cv-0989 JLT CDB (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS CLAIM
THREE IN PLAINTIFF'S COMPLAINT**

(Doc. 15)

Aaron D. Seymour seeks to hold the defendant liable for civil rights violations pursuant to 42 U.S.C. § 1983. The magistrate judge found Plaintiff stated cognizable claims for retaliation in violation of the First Amendment and failure to protect under the Eighth Amendment. (*See* Doc. 13 at 3-6.) However, the magistrate judge determined Plaintiff failed to allege compliance with the Government Tort Claim Act, as required for his third claim for relief: “slander of character [and] moral debilitation” and/or defamation. (*Id.* at 6-8.)

On May 26, 2023, Plaintiff filed a notice indicating he did “not wish to file an amended complaint [and] would like to proceed only on the First Amendment retaliation [and] Eighth Amendment failure to protect claims against Defendant Ledbetter.” (Doc. 14 at 1.) Therefore, the magistrate judge recommended the action proceed on the cognizable claims, and the claim arising under state law be dismissed. (Doc. 15)

The Court served the Findings and Recommendations on Plaintiff on June 21, 2023, and

1 contained a notice that any objections were due within fourteen days of the date of service. (Doc.
2 15 at 2.) The Court advised him that “[f]ailure to file objections within the specified time may
3 result in waiver of rights on appeal.” (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th
4 Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991).) Plaintiff did not file
5 objections, and the time to do so has expired.

6 According to 28 U.S.C. § 636(b)(1)(C), this Court conducted a *de novo* review of this
7 case. Having carefully reviewed the entire matter, the Court concludes the Findings and
8 Recommendations are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 9 1. The Findings and Recommendations issued on June 1, 2023 (Doc. 15) are
10 **ADOPTED** in full.
- 11 2. The action **SHALL** proceed only on Plaintiff’s claims for retaliation in violation
12 of the First Amendment (claim one) and failure to protect under the Eighth
13 Amendment (claim two).
- 14 3. The remaining claim (claim three) is **DISMISSED**.
- 15 4. This action is referred to the assigned magistrate judge for further proceedings.

16
17 IT IS SO ORDERED.

18 Dated: **July 17, 2023**


UNITED STATES DISTRICT JUDGE